

agency of natural persons, they may cause it so far to depart from the purposes of its establishment, as, by means of its servants to commit a trespass, or tort, or unlawfully to refuse to make compensation for that by which it had been, upon its own request, materially benefited; and, therefore, redress is allowed to be had against it by an action of trespass, trover, or assumpsit, as may be best suited to the true nature of the case. *Com. Dig. tit. Franchises, F, 19; Yarborough v. The Bank of England, 16 East, 6; The Bank of Columbia v. Patterson, 7 Cran. 299; McDonough v. Templeman, 1 H. & J. 156; The Bank of the United States v. Norwood, 1 H. & J. 423; Kennedy v. The Baltimore Insurance Company, 3 H. & J. 367; Union Bank of Maryland v. Ridgely, 1 H. & G. 419.*

The adjudications by which these modes of proceeding have been sanctioned, manifest a sensible and strong disposition in the Courts of justice, so to control and modify the ancient distinction between the artificial and natural capacities of those of whom corporations may be composed, as to prevent them from withholding a disclosure of the truth; or from perpetrating wrong and fraud, under cover of their artificial capacity; because of the quaint notion that, as such, they have no soul; or because, in general, they can only act, or bind themselves in the manner prescribed by means of their corporate seal.

On the other hand it may often become necessary to proceed personally against the officers and members of a body politic, who have been entrusted with its concerns, so as to prevent them from exposing its property to seizure and loss by reason of their negligence or contumacy. In a suit against a body politic, which can only be considered as an auxiliary of the government of the Republic, it would certainly be very unjust to seize upon its property, * and stop or embarrass its operations, merely for the purpose of compelling its mayor, president, or directors, to answer to a suit which had been brought against it. Indeed it would, in most instances, be doing a gross injury to the public, only as a means of reaching and coercing a delinquent corporator, whose separate and personal interests could not be at all affected by any such proceeding. For, the Mayor and Council of a city; the Justices of a Levy Court; the governors and visitors of a college; the president and directors of a hospital, or the trustees of the poor, could not have their private interests, in any manner, affected by the most destructive sequestration that could be made of the corporate property which they held in their artificial capacity. Even with regard to bodies politic of the second class, whose sole object is the aggrandizement of their own members, it certainly must be admitted to be unjust to injure all, by an indiscriminate sequestration, merely because some one, or a few of their members have been negligent, or contumacious, in not answering to a suit as was required.